IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/057,259	§	Examiner: Bhatia, Ajay M.
	§	Group/Art Unit: 2145
Filed: October 25, 2001	§	Atty. Dkt. No: 5681-49700
	§	
Inventor(s):	§	
Christopher M. Jakubiec	§	I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.
	§	
Title: METHOD AND APPRATUS FOR MANAGING DATA TIME OUTS	§	Erik A. Heter
	§	Printed Name
	§	January 31, 2006
	§	Signature Date
	§	
	§	

REQUEST FOR PRE-APPEAL BRIEF REVIEW

ATTN: BOX AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s).

Applicant is in receipt of the Advisory Action mailed on January 19, 2006. Claims 1-43 remain pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks. Please note that for brevity, only the primary arguments directed to the independent claims are presented, and that additional arguments, e.g., directed to the subject matter of the dependent claims, will be presented if an when the case proceeds to appeal.

REMARKS

Claims 1-43 stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Eden, U.S. Patent Application Publication 2002/0184361.

Contrary to the Examiner's assertions, Eden does not teach or suggest all the features of the independent claims. In particular, Eden does not teach or suggest "a scoreboard comprising a plurality of locations adapted to store <u>transaction identifiers</u> **each** <u>associated with a</u> **transaction** ... wherein <u>each transaction identifier</u> **includes** <u>a first timer flag and a second timer flag</u>" as recited in claim 1 and similarly recited in independent claims 13, 19, and 31. In the final office action, the Examiner contends that paragraph [0032] of Eden teaches transaction identifiers <u>as device names</u>. However, nowhere in paragraph [0032] does Eden provide any teaching or suggestion that the identifiers discussed therein are associated with anything other than a device. More particularly, the identifiers discussed in paragraph [0032] of Eden are directed to an identification of a device, a type of device, and the availability of the device. Thus, each of the device names taught by Eden <u>is associated with</u> **a device**, in contrast to the <u>transaction identifiers</u> as recited in the independent claims, <u>each of which is associated</u> <u>with</u> **a transaction**. In the advisory action, the Examiner contends that queries, as discussed by Eden, are transactions according to page 8, lines 21-22 of Applicant's specification. The Examiner further contends that a query meets the definition of a transaction "since it is a communication between the device and a device." However, regardless of how transactions are defined, it does not change the fact that the <u>device</u> <u>names</u> of Eden are each <u>associated with</u> **a device**, rather than being <u>associated with a</u> <u>particular query or</u> **transaction**, as are the transaction identifiers recited in the independent claims.

The Examiner has further failed to point out how the device names of Eden **include** <u>a first timer flag and a second timer flag</u>. The Examiner contends this feature is taught in paragraph [0034] of Eden. Paragraph [0034] is directed toward a timer which is started at the beginning of a network query, wherein if the timeout period expires before a query reply is received from the network connected device, the particular device is

determined to be unavailable. However, the Examiner has not specified as to how the device names taught by Eden actually **include the first and second timer flags**. Applicant therefore submits that Eden clearly fails to teach transaction identifiers each associated with a transaction, each including a first timer flag and a second timer flag.

The Examiner further contends that Eden teaches a device adapted to manage a plurality of transaction identifiers in paragraph [0030]. However, as Applicant noted in the response to the final office action, paragraph [0030] of Eden is directed toward a querying device which builds a GUI representing the availability of network devices. The Examiner contended that the querying device was the device adapted to manage the scoreboard. However, other than determining the availability of the network connecting devices, Applicant can find no teaching or suggestion anywhere in Eden as to how the querying device manages the alleged scoreboard. Furthermore, as noted above, Eden does not teach or suggest transaction identifiers, each associated with a transaction. As such, Applicant can find no teaching or suggestion in paragraph [0030] or elsewhere in Eden wherein the querying device **manages a plurality of transaction identifiers** in the scoreboard. Applicant notes that the Examiner did not address this argument in the advisory action.
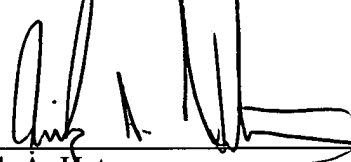
In light of the above remarks, Applicant respectfully submits that a case of anticipation has not been established and therefore the Examiner's rejection is erroneous. Accordingly, reversal of the Examiner's decision is respectfully requested.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-49700/EAH.

Respectfully submitted,

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Date: January 31, 2006